

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In re: Kenneth D. Levy, II

Petition No. 99III-011-016

Lic# 027483

PRELICENSURE CONSENT ORDER

WHEREAS, Kenneth D. Levy, II of Windsor, Connecticut (hereinafter "respondent") has applied for licensure to practice as a licensed practical nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent agrees that:

1. The Department has at no time issued respondent a license to practice the occupation of practical nursing under the General Statutes of Connecticut, Chapter 378.
2. Between 1989 and 1997, respondent was found guilty of multiple criminal charges, including criminal mischief, burglary, reckless endangerment, use of drug paraphernalia, breach of peace and harassment.
3. Between 1996 and 1997, respondent abused or excessively used drugs.
4. The conduct described above constitutes grounds for the denial of respondent's application for licensure pursuant to §19a-14 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-14 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives the right to a hearing on the merits of his application for licensure.

2. After satisfying the requirements for licensure as a practical nurse as set forth in Chapter 383 of the General Statutes of Connecticut, respondent's license to practice as a practical nurse will be issued.
3. Respondent's license to practice as a practical nurse in the State of Connecticut shall, immediately upon issuance, be placed on probation for four (4) years under the following terms and conditions:
 - a) Respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.
 - i) During the probationary period, respondent shall submit to random observed urine screens for alcohol, controlled substances, and legend drugs. There must be at least one such observed random alcohol/drug screen and accompanying lab report every week for the first two (2) years of probation, and at least two such screens and reports for the duration of probation. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and

chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

- ii) Respondent shall cause to have the facility provide reports to the Department on the urine screens for alcohol, controlled substances and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
- iii) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
- iv) Respondent shall notify the laboratory, his therapist, and the Department of any drugs he is taking. Respondent shall also notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
- v) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, and mouthwash during the term of this Consent Order. In the

event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.

- b) Respondent shall not accept employment in any capacity for a personnel provider, assisted living services agency, visiting nurse agency or home health care agency, and shall not be self employed as a nurse for the period of his probation.
- c) Respondent shall report to the Department any subsequent arrest(s). Such report shall occur within fifteen (15) days of such event.
- d) Respondent shall provide his employer and/or designated supervisor at place where respondent is employed throughout the probationary period, with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer on a quarterly basis for the entire probationary period, stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state. If respondent is not practicing with reasonable skill and safety and/or in an alcohol and substance-free state, the employer or designated supervisor shall immediately notify the Department.
- e) Between ten and twelve months after the execution of this Consent Order, the respondent shall, at his own expense, undergo a psychiatric and/or psychological evaluation, by a psychiatrist and/or psychologist pre-approved by the Department (hereinafter "the evaluator(s)"). Respondent shall fully cooperate with all requests made by the evaluator(s). Respondent hereby agrees that the evaluation report(s) shall be provided by the evaluator(s) directly to the Department. The evaluator(s)

shall assess the respondent's ability to safely practice nursing. If the evaluator(s) reach(es) any other conclusion, such finding shall result in the Department amending this Consent Order or instituting actions as deemed appropriate by the Department. The Department may provide the evaluator with a copy of the Consent Order and additional information including, but not limited to, prior psychiatric evaluations of respondent, the monitoring file including all therapist and employer reports and any reports received from the police or any other authority.

4. Respondent shall comply with all state and federal statutes and regulations applicable to his license.
5. Respondent shall notify the Department of any change(s) in his employment within fifteen (15) days of such change.
6. Respondent shall notify the Department of any change(s) in his home and/or business address within fifteen (15) days of such change.
7. Any deviation from the term(s) of this Prelicensure Consent Order without prior written approval of the Department shall constitute a violation. A violation of any term(s) of this Prelicensure Consent Order shall result in the right of the Department in its discretion to immediately deem respondent's practical nurse license rescinded. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department's right to take action at a later time. The Department shall not be required to grant future extensions of time or grace periods. Notice of the rescission of the license shall be sent by the Department to respondent's address of record. Respondent waives

any right to a hearing on the issue of violation of the terms of this Prelicensure Consent Order.

8. That correspondence and reports required by the terms of this Prelicensure Consent Order are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, Connecticut 06134-0308

9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
10. Respondent understands that this Prelicensure Consent Order may be considered as evidence of the above-admitted violations in any proceeding before the Connecticut State Board of Examiners for Nursing in which (1) his compliance with this Prelicensure Consent Order is at issue, or (2) his compliance with §20-99 of the Connecticut General Statutes, as amended, is at issue.
11. This Prelicensure Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Prelicensure Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that he may have under the laws of the State of Connecticut or of the United States.

12. This Prelicensure Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
13. This Prelicensure Consent Order is effective when accepted and approved by a duly appointed agent of the Department.
14. Respondent understands this Prelicensure Consent Order is a matter of public record.
15. Respondent understands he has the right to consult with an attorney prior to signing this Prelicensure Consent Order.

I, Kenneth D. Levy II have read the above Prelicensure Consent Order, and I agree to the terms and allegations set forth therein. I further declare the execution of this Prelicensure Consent Order to be my free act and deed.

Kenneth D. Levy II
Kenneth D. Levy, II

Subscribed and sworn to before me this 4th day of May 1999.

[Signature]
Notary Public or person authorized by law to administer an oath or affirmation
Alfonso Rodriguez
My Commission Expires
October 31, 2002

The above Prelicensure Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 4th day of May 1999, it is hereby ordered and accepted.

Cynthia Denne
Cynthia Denne, Director
Division of Health Systems Regulation

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